

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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| CARLTON MICHAEL GARY, | : | |
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| Plaintiff, | : | |
| | : | |
| v. | : | NO. 5:15-CV-259 (CAR) (TQL) |
| | : | |
| Warden BRUCE CHATMAN, <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |
| _____ | : | |

ORDER ON RECOMMENDATIONS

Before the Court are two Recommendations from the United States Magistrate Judge: (1) the Order and Recommendation [Doc. 15] based on the preliminary screening of Plaintiff's Complaint recommending dismissal of some claims and allowing others to go forward, and recommending denial of Plaintiff's Motion for Temporary Restraining Order [Doc. 12] ("First Order and Recommendation"); and (2) the Order and Recommendation [Doc. 43] on Defendants' pre-answer Motion to Dismiss [Doc. 31] recommending dismissal of Plaintiff's remaining claims based on three strikes (the "Second Order and Recommendation").

Plaintiff filed a Notice of Appeal [Doc. 25] from the First Order and Recommendation. However, the Order and Recommendation is not a final order subject to appeal.¹ Thus, Plaintiff's attempt to file an interlocutory appeal of the First Order and

¹ *Perez-Priego v. Alachua County Clerk of Court*, 148 F.3d 1272, 1272 (11th Cir. 1998).

Recommendation does not cause this Court to lose jurisdiction of the case.² Thus, the Court will construe Plaintiff's Notice of Appeal [Doc. 25] as an Objection to the First Report and Recommendation. Having reviewed Plaintiff's 47-page Objection and made a *de novo* determination of the portions of the Recommendation to which Plaintiff objects, the Court finds Plaintiff's contentions do not change the well-reasoned outcome set forth in the Recommendation. Thus, Plaintiff's Objections to the First Order and Recommendation are **OVERRULED**.

Plaintiff also filed an Objection to the Second Order and Recommendation wherein he restates his claims and contentions that have been thoroughly and completely addressed in that Recommendation. The Court need not restate those findings here. Having fully considered the record in this case and made a *de novo* determination of the portions of this Recommendation to which Plaintiff objects, the Court finds them to be without merit. Thus, Plaintiff's Objections to the Second Order and Recommendation are **OVERRULED**.

The Recommendations [Docs. 15 and 43] are hereby **ADOPTED AND MADE THE ORDERS OF THIS COURT**. Plaintiff's Motion for Temporary Restraining Order and Motion for Preliminary Injunction [Doc. 12] are **DENIED**, and Defendants' Motion to Dismiss [Doc. 29] is **GRANTED**. Plaintiff's Complaint is hereby **DISMISSED without prejudice** for the reasons set forth in the Recommendations.

² See *Natty v. Morgan*, Case No. 2:12-cv-73-RWS, 2014 WL 11456280, *1 (N.D. Ga. Sept. 3, 2014) (citation omitted).

SO ORDERED, this 1st day of September, 2016.

C. ASHLEY ROYAL
UNITED STATES DISTRICT COURT

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